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SUBJECT: IPR in Montreal Part 2 - Music Fans and Industry
Stakeholders Take IPR Into Their Own Hands

Ref: A Montreal 365, B Ottawa 406, C 05 Ottawa
2970

This message is Sensitive but Unclassified

Summary

¶1. (U) The strength and popularity of Quebec's music and film industries have made them attractive targets for illegal file sharing and pirating. Quebec music and films are routinely pirated and sold at Montreal-area flea markets along with internationally recognized music and films. Although later overturned on appeal, a March 2004 ruling by a Federal judge that peer-to-peer file sharing was legal posed a major setback for IPR proponents. That decision, although now in limbo, legitimized file sharing in the minds of many Canadian consumers and encouraged the C\$1.6 billion in illegal music downloads that occur in Canada each year. Recognizing that potential music consumers often do not fear legal repercussions from their downloading, the Quebec music industry and fans have begun taking IPR enforcement into their own hands. The Association Quebecois de l'Industrie du Disque, du Spectacle, et de la Video (ADISQ) has started campaigns to make consumers aware of the detrimental impacts of file-sharing on the local music industry. In September 2005, the Quebec National Library stopped offering its patrons the chance to burn copies of its CDs in response to negative press coverage and pressure from ADISQ. While these are encouraging steps, the continued popularity of file-sharing and lack of legal remedy mean that IPR violations in the Quebec music industry are not a temporary trend.

Fans / Local Industry Respond to IPR violations

¶2. (U) Quebec has its own French-language music industry complete with music awards shows and eight entertainment magazines. With local Quebec musicians monopolizing some 38% of all CD sales and with more than half of the twenty largest musical successes between 2002 and 2004 considered "local creations," IPR issues have taken on a new level of importance for Montreal's recording industry and music fans. Quebec music CDs, like its films (Reftel A), are being copied and sold at local venues, such as Montreal-area flea markets, just like big-label music artists.

¶3. (SBU) Because the protection of IPR falls to the federal Department of Industry and Department of Canadian Heritage, the Royal Canadian Mounted Police (RCMP) alone

has the authority in Quebec to go after IPR violators. The RCMP has focused its energy on IPR violators who are using their profits to finance terrorist activities, pirating operations that are run by organized crime outfits, and "large-scale, commercial operations." An RCMP officer in Montreal admitted the RCMP is not as intent on targeting "mom and pop" establishments and "does not have the resources to go after everyone" alleged to be involved in the sale of pirated goods. Consequently, some private sector groups have filed civil charges against pirated disk producers.

14. (SBU) Pride in, and loyalty to, local artists led some music fans to alert their favorite musical groups when they found illegally copied versions of the Quebec artists' music for sale at Montreal-area flea markets. Fan emails prompted musicians to get in touch with ADISQ, the professional association that represents independent Quebec music artists and assists such artists in selling their products to international markets. As a result, ADISQ started a civil procedure to gain the authority to seize all pirated disks for sale at flea markets in Quebec for a period of one year. Getting the rights to seize pirated materials was, according to a member of ADISQ, "not complicated, but required proof" of the presence of pirated discs. In August 2005, ADISQ sent representatives out to the flea markets in question "dressed in t-shirts and jeans," to gather evidence of the pirated disks being sold (for an average price of C\$4) and query vendors.

15. (SBU) Based on the proof that ADISQ's members collected, four people were arrested and eventually found guilty by a November 2005 civil procedure. The judge fined the four guilty parties C\$200,000 in total. According to an

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employee of the Canadian Motion Picture Distributors Association (CMPDA), some of the same individuals who had been implicated in the sale of these pirated CDs had also been selling pirated Quebec films at the same flea markets. The sale of pirated DVDs and CDs at Montreal-area flea markets stopped directly after the judge's decision to impose the fine on the four suspects. However, the CMPDA representative said that pirates of local films and music, while currently "scared" by the civil verdict, will gradually regain the courage to sell their wares in flea markets. "They'll be back. Just wait until the spring." Press coverage of the court's decision increased public awareness in Quebec of the presence of pirated goods; articles also mentioned that the sale of pirated CDs harms not only music vendors, but also the artist themselves.

16. (SBU) Quebec's music industry loses money each year to the sale of pirated disks as well as from peer-to-peer file sharing. The black market nature of the pirated CD sale industry and the difficulty of translating peer-to-peer downloads into potential CD sales make it difficult to calculate monetary losses from music piracy in Quebec. One estimate by ADISQ calculated the number of pirated disks for sale at flea markets in the province (prior to the seizure of CDs and the court's decision) at C\$750,000 and the monetary value of lost CD sales in the millions of dollars.

17. (U) CDs from local artists are typically as expensive if not more expensive, than CDs from major-label artists, but this has not stopped the local music industry from developing and protecting its interests in Quebec. Since 2004, ADISQ has financed an annual promotional campaign in February to alert consumers to the damage inflicted by file-sharing and piracy on the music industry and to encourage music lovers to purchase CDs. In February 2006, for example, people who purchased a CD from a Quebec artist received a gift bag inscribed with the phrase (in French) "for those who love music, say no to copying." The first such promotion in 2004 coincided with an increase of 30.4%

in the sales of local artists' CDs over the same period in 2003. This increased level of sales has continued with the program in 2005 and 2006.

Library a magnet for disk burners

18. (SBU) Another battle over file sharing and disk burning raged last August at the Grande Bibliothèque National (the Quebec National Library), located in downtown Montreal. Press reports that the Library offered access to audiovisual materials only steps away from computers with disk-burning software offered a sharp contrast to simultaneous stories about ADISQ's efforts to combat music piracy. While ADISQ was urging music lovers to purchase CDs to support local stores and avoid copying and file-sharing, many Quebecers were taking advantage of the Quebec National Library's extensive music library and free disk burning software. The library's 90,000 audiovisual materials represent one third of all its loans and are one of the biggest attractions of the state-of-the art facility (that opened in Spring 2005). The library's computers afforded the library's patrons the opportunity to burn their own copies of CDs without ever removing them from the library. The Library's spokesperson initially stated that the CD burners did not permit patrons to make multiple copies of CDs, and asserted, incorrectly, the widely-held perception that burning a disk is not itself an infringement of Canadian law.

19. (SBU) In September 2005, faced with pressure from ADISQ as well as negative media coverage, the library blocked the disk burning software on all of its computers. According to the Library's coordinator of the music and film collection, "once we became aware that patrons were using the computers to make copies of music, we had to do something. It was happening right in front of our eyes. We could not pretend it was not happening." This change in the library's computer software, however, does not prohibit the Quebec library's patrons from borrowing CDs and making copies at home, or making such copies within the library on their personal laptops. The Library's film and music coordinator admitted that Library patrons could burn disks on their personal computers while working in the library as well as take disks home to copy. He did note that the library places a three disk maximum on music loans, and that library employees have been instructed to keep an eye

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out for patrons burning library music on personal computers. "Though we can't really see what applications [library patrons] are using" he added.

Comment

110. (SBU) Like its films, the local popularity of Quebec's music places it in a unique position to highlight the impacts of IPR violations on smaller artists who are not internationally recognized. One RCMP official involved in IPR violation investigations in Quebec noted to Econoff that his staff, faced with limited resources, had chosen to focus their efforts on IPR violations that had a public safety component (such as the sale of substandard electrical products with counterfeit stickers) rather than sales of pirated music. However, in a positive development, one contact at ADISQ noted that her group had been "cooperating very closely with RCMP officials" in the wake of the seizure of pirated goods at the Montreal-area flea market and that she expected this cooperation to continue. New federal Minister of Industry Maxime Bernier hails from Quebec, and although his views on IPR protection have not yet been clearly defined, it is likely that he will face pressure from Quebec's music and film industry to tighten

existing regulations and increase penalties for IPR civil convictions.

MARSHALL